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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

ZLOTNICK=2

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Application Number

09/902,733

Filed

July 12, 2001

First Named Inventor

Aviad Zlotnick

Art Unit

2625

Examiner

G. M. Desire

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 19,963

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

N. J. Latker

Signature

Norman J. Latker

Typed or printed name

(202) 628-5197

Telephone number

April 11, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 7 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY. DOCKET: ZLOTNICK=2

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|-------------------------------|---|------------------------|
| In re Application of: |) | Art Unit: 2625 |
| |) | |
| Aviad ZLOTNICK |) | Examiner: G. M. DESIRE |
| |) | |
| Appln. No.: 09/902,733 |) | Washington, D.C. |
| |) | |
| Filed: July 12, 2001 |) | Confirmation No. 9520 |
| |) | |
| For: IMPROVING EFFICIENCY AND |) | April 11, 2006 |
| SPEED IN VERIFICATION OF... |) | |

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window
Randolph Building, Mail Stop AF
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Alexandria, VA 22314

Sir:

Concurrent with filing a Notice of Appeal in compliance with 37 C.F.R. 41.31, Applicant respectfully requests a pre-appeal brief review of the rejections of record.

I. *Introductory Comments*

Claims 1-3, 5-14, 16-25 and 27-33 are pending in this application. Claims 1, 12 and 23 are independent claims. The pending claims are listed in an Amendment filed August 31, 2005.

In an Official Action dated November 17, 2005, all of the claims were finally rejected. Claims 1, 2, 5-8, 11-13, 16-19, 22-24, 27-30 and 33 were rejected under 35 U.S.C. 102(b) over Yeager et al. (U.S. Patent 5,950,190), while claims 3, 9, 10, 14, 20, 21, 25, 31 and 32 were rejected under 35 U.S.C. 103(a) over Yeager in view of Kanatsu (U.S. Patent 6,628,832). In a Response filed January 17, 2006, Appellant argued that Yeager fails to teach all the elements of the independent claims and of certain dependent claims. In an Advisory Action dated March 13, 2006, the Examiner maintained the rejection of claim 1, but did not specifically respond to Appellant's arguments regarding the dependent claims.

Appellant respectfully submits that the cited art fails to teach (or even to suggest) every element of the claims currently pending in this application. Accordingly, Appellant requests that the application

be allowed on the existing claims or, in the alternative, that prosecution on the merits of the claims be reopened with a non-final Official Action.

II. Rejection of independent claims 1, 12 and 23

Claim 1 recites a method for increasing efficiency of interaction by an operator with data on a display by placing multiple redundant instances of an on-screen control at different locations in the display in proximity to different data fields. Selection of any of the instances actuates the control. Claims 12 and 23 respectively recite apparatus and a computer software product that implement this sort of display. Exemplary displays of this type are shown Figs. 2A and 2B in the present patent application, each of which contains seventeen functionally-identical "DONE" buttons. As a result of the use of redundant controls, the operator need make only a small movement of a pointing device to reach the closest instance (as explained on page 3, lines 23-25, in the present patent application, for example).

Yeager describes a dynamic database interface with multiple graphical windows for searching and editing the database contents (abstract). Yeager shows an exemplary search window in Fig. 4, which includes different parameter buttons 52 with input fields 53 for input of search terms (col. 10, lines 11-25). A pull-down list 54 provides a choice of mathematical operators from which an end user may choose (col. 10, lines 30-38). In the Official Action of November 17 (paragraph 6), the Examiner stated that Yeager's blocks 52 and 54 represent multiple redundant instances of on-screen controls. The Examiner's position in the Official Action appeared to be that the pull-down lists for the Barcode and Partno fields in Yeager's Fig. 4 contain the same operators and are therefore redundant. The Examiner's response in the Advisory Action to Appellant's arguments is not entirely clear, but it appears that the Examiner has taken the alternative position that the "pull down arrows" in Yeager's Fig. 4 (in the form of inverted triangles next to fields 53) are multiple redundant instances of an on-screen control.

Even if it were conceded for the sake of argument, that Yeager's pull-down list or inverted triangles might be *multiple instances* of an on-screen control, *Yeager neither teaches nor suggests placing multiple redundant instances of an on-screen control on a display, as required*

by claims 1, 12 and 23. MPEP 2111.01 states clearly that the words of a claim must be given their "'plain meaning'... [which] refers to the ordinary and customary meaning given to the term by those of ordinary skill in the art." The Examiner, however, has entirely ignored the meaning of the term "redundant," which was introduced in the Amendment of August 31. He has evidently taken the position that whenever multiple instances of some control are presented on screen, they must necessarily be redundant, so that addition of the term "redundant" itself has no meaning at all.

Appellant respectfully submits that the term "redundant" has a plain and unequivocal meaning to those of ordinary skill in the technological arts, and that this meaning is reinforced by the specification of the present patent application. When this meaning is taken into account in reading the claims, the distinction of claims 1, 12 and 23 over the cited art is clear.

Webster's Third International Dictionary (1993) defines redundant as "exceeding what is necessary or normal." As used in the technological arts, this definition is taken to refer to an element that duplicates a function performed by another element. The redundant instance is not needed for normal performance of the function. A redundant disk, for example, stores the same data as another disk, while a redundant communication link provides an additional connection between two points that are already connected by another link. A redundant control on screen performs the same function as is already performed by another control.

The description of on-screen controls in the specification of the present patent application clearly supports this interpretation, even though the term "redundant" does not explicitly appear. As shown in Figs. 2A and 2B, for example, the user viewing this screen may select any of the "DONE" controls and will accomplish exactly the same effect: to move on to the next screen. In other words, the controls interchangeably perform the very same function. The Federal Circuit Court made clear the importance of the specification in construing claim terms in *Philips v. AWH Corp.*, F.3D, 75 USPQ2d 1321 (Fed. Cir. 2005):

"... the person of ordinary skill in the art is deemed to read the claim term not only in the context of the

particular claim in which the disputed term appears, but in the context of the entire patent, including the specification."

More recently, in reviewing a decision of the Board of Patent Appeals and Interferences, *In re Scott E. Johnston* (January 30, 2006), the Court indicated that the principles of *Phillips v. AWH* should be applied by the Patent Office, as well: "It is well established that dictionary definitions must give way to the meaning imparted by the specification." In any event, the meaning of "redundant" that can be inferred from the specification in the present case is in accord with the dictionary meaning cited above and with the common use of the term in the technological arts.

In Yeager, on the other hand, each on-screen control has its own unique purpose. Each field has a different meaning, and each pull-down menu is applicable to that specific field. Similarly, the inverted triangles that the Examiner identified as "pull-down arrows" are each associated uniquely with one of the fields. Eliminating one of these pull-down arrows from Yeager's screen would mean that there is no way to access the pull-down menu for the corresponding field. There is no duplication of functions among Yeager's on-screen controls, and there are no more controls than what is "necessary and normal." Stating that Yeager's controls are "redundant" would be equivalent to stating that identical disks storing different data or identical communication lines connecting different points are redundant. The fact that multiple instances of a control (or disks or communication lines) may have the same form or even perform similar functions on different objects does not by itself make them redundant.

Thus, the Examiner's interpretation of the term "redundant" in the present claims clearly deviates far outside the plain meaning of the term - and in fact deprives the term of any meaning at all. Therefore, the rejection of claims 1, 12 and 23 should be reversed.

In view of the patentability of independent claims 1, 12 and 23, the dependent claims in this application are believed to be patentable, as well.

III. Rejection of dependent claims 2,3, 13, 14, 24 and 25

These claims recite that selection by the operator of any of the multiple redundant instances of the control indicates that the data are verified. In rejecting these claims, the Examiner referred to Yeager's

"DONE" button in Fig. 4 and to a "DESCRIPTION" button mentioned by Yeager in col. 10, lines 60-65. Yeager, however, shows only a single "DONE" button, of which there is only a single instance on Yeager's screen. (It is not clear how the passage cited by the Examiner in col. 10 could be relevant to these claims.) Yeager neither teaches nor suggests that there might be multiple, redundant on-screen controls, any of which could be selected in order to indicate that data have been verified, as required by claims 2, 13 and 24. Therefore, these claims are believed to be independently patentable notwithstanding the patentability of the independent claims.

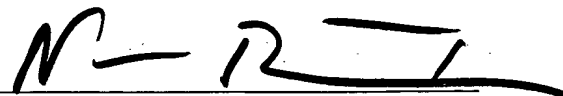
IV. Rejection of dependent claims 5, 16 and 27

These claims recite that all of the multiple redundant instances of the on-screen control indicate that the operator has finished processing the data in the plurality of fields on the computer display. In rejecting these claims, the Examiner referred to Yeager's "OK" and "DONE" controls on screen in Fig. 4. The meaning of "OK," however, is inherently different from "DONE," so that the controls are not redundant. Furthermore, even if Yeager's "OK" and "DONE" were considered to be redundant, these controls are not located in proximity to different data fields on the screen as required by the combined limitations of any of claims 5, 16 and 27 with the independent claims from which they depend. Therefore, these claims are believed to be independently patentable notwithstanding the patentability of the independent claims.

V. Conclusion

In view of the above remarks, Appellant respectfully submits that all of the claims in the present application are in order for allowance. Notice to this effect is hereby requested.

Respectfully submitted,
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